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G & P ENTERPRISES, LLC, d/b/a
6 ALLIED TRUSTEE SERVICES

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8 **IN THE UNITED STATES BANKRUPTCY COURT**

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10 **IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA**

11 **SACRAMENTO DIVISION**

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13 In re:) Case No.: 12-29353-B-11
14) Adv. No.: 13-02132-B
15 DANIEL MAJOR EDSTROM,) Docket Control No. LDH-2
16 Debtor and Debtor in Possession.) Chapter 11
17) Assigned to: Hon. Thomas C. Holman,
18 DANIEL MAJOR EDSTROM,) U. S. Bankruptcy Judge
19 Plaintiff,)
20 vs.)
21 AUBURN LAKE TRAILS PROPERTY)
22 OWNERS ASSOCIATION, a California)
non-profit mutual benefit corporation,)
et al.,)
23 Defendants.) [FRCP §§ 8(A) & (D); 9(B); 12(B)(6)]
24) Date: October 29, 2013
25) Time: 9:32 a.m.
26) Ctrm: 32
27) Dept: B

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**
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3 PLEASE TAKE NOTICE that on October 29, 2013, at 9:32 a.m., or as soon thereafter as the
4 matter may be heard, in Courtroom 32, Dept. B of the above-entitled Court, located at 501 "I" Street, 6th
5 Floor, Sacramento, California, Defendant G & P ENTERPRISES, LLC, d/b/a ALLIED TRUSTEE
6 SERVICES (hereinafter "G & P" or "Defendant") will move the Court pursuant to Fed. Rule of Civ.
7 Proc. 12(b)(6) for an order dismissing Plaintiff's First Amended Complaint filed herein on August 25,
8 2013 [Docket No. 58] ("Complaint"), and all claims against Defendant G & P contained therein *with*
9 *prejudice.*

10 The grounds for this motion are (1) that Plaintiff has failed to state a claim against G & P upon
11 which relief can be granted [Fed. Rule Civ. Proc. 12(b)(6)]; (2) that the Complaint fails to present a
12 "short and plain statement" of the Plaintiff's claims [Fed. Rule Civ. Proc. 8(a)] and is not "simple,
13 concise and direct" [Fed. Rule Civ. Proc. 8(d)]; Plaintiff's fraud claims are not pled "with particularity"
14 [Fed. Rule Civ. Proc. 9(b)]; and (4) that the defects in the Complaint are such that the defects are
15 incurable and the Complaint is incapable of amendment, and that the Plaintiff can prove no set of facts
16 in support of their claims which would entitle him to relief; and that therefore the Complaint, and the
17 claims against Defendant therein contained, should be dismissed *with prejudice.*

18 The motion will be based on this notice, the memorandum of points and authorities, the Court's
19 files and records herein and such other and further matters as may be presented to the Court prior to or at
20 hearing on this matter.

21 DATED: September 5, 2013

22 LAW OFFICES OF GLENN H. WECHSLER

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24 By: /s/Lawrence D. Harris
25 LAWRENCE D. HARRIS

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